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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,210	08/18/2003	Hideki Tomine	0717.2024-008	4037
21005	7590	07/10/2006		EXAMINER
		HAMILTON, BROOK, SMITH & REYNOLDS, P.C.		EISEN, ALEXANDER
		530 VIRGINIA ROAD		
		P.O. BOX 9133	ART UNIT	PAPER NUMBER
		CONCORD, MA 01742-9133		2629

DATE MAILED: 07/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/643,210	TOMINE ET AL.	
	Examiner	Art Unit	
	Alexander Eisen	2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 June 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 3-5,7,11,13,14,17-19,21,25,27,28,31,32 and 34 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,6,8-10,12,15,16,20,22-24,26,29,30,33 and 35 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election of species G (FIGS. 13-14 in the reply filed on 12 June 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 3-5, 7, 11, 13-14, 17-19, 21, 25, 27-28, 31-32 and 34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 6, 12, 15, 16, 20, 26, 29 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Wells, US 5,003,300.

With respect to claim 1 Wells discloses a display system (FIG. 1) comprising a frame 24A wearable on the head of a user 6; and an imaging system 10A coupled to the frame, the

imaging system presenting a viewable image to the user at a view angle relative to the user's eye level (col. 4, ll. 34-68).

As pertaining to claim 2, the imaging system is rotatable to adjust the view angle (col. 4, ll. 59-68).

As pertaining to claim 6, the frame is essentially transparent within the user's field of view.

As pertaining to claim 12, as can be seen from FIG. 1 the viewing angle is from below the user's eye level.

With respect to claim 15, Wells discloses a method for use of a display system by a user, the method comprising wearing a frame on the head; and viewing, at a view angle relative to the eye level, a presented viewable image on an imaging system coupled to the frame (see relevant discussion of claim 1).

As pertaining to claim 16, the method further comprises rotating the frame to adjust the view angle (method claim is similar to that of an apparatus claim 2).

As pertaining to claim 20, the frame is essentially transparent within the user's field of view.

As per claim 26, the viewing angle is from below the user's eye level.

As pertaining to claim 29 Wells discloses a method of making a display system, comprising fabricating a frame wearable on the head of a user; fabricating an imaging system for presenting an image; and coupling the imaging system to the frame so that the presented image is viewable at a view angle relative to the user's eye level when worn (as can be seen from the discussion in relation to an apparatus claim 1).

As pertaining to claim 30, the imaging system is rotatable to adjust the view angle.

As for claim 33, the frame is essentially transparent within the user's field of view.

5. Claims 1, 2, 8-10, 15, 16, 22-24, 29, 30 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Budd et al., (Budd), US 6,747,611.

With respect to claims 1, 15 and 29 Budd discloses a display system and associated method of use the same comprising a frame 500 wearable on the head of a user; and an imaging system 10 coupled to the frame, the imaging system presenting a viewable image to the user at a view angle relative to the user's eye level (FIGs. 3-4; col. 4, lines 9-62).

As pertaining to claim 2, the imaging system is rotatable to adjust the view angle.

As pertaining to claims 8, 22 and 35, the imaging system includes a free-form prism (col. 6, lines 7-13).

As pertaining to claims 9, 10, 23 and 24 the prism is vertically and horizontally aligned relative to the user (FIGS. 8, 10; col. 8, ll. 17-41).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Suwa et al., US 5,371,556; Robertson, US 6,034,653; Cone et al., US 2002/0089469; Amafuji et al., US 6,359,602 – all disclose the head-ip display arrangements systems similar to that of the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Eisen whose telephone number is (571) 272-7687. The examiner can normally be reached on M-F (9:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sumati Lefkowitz can be reached on (571) 272-3638. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Alexander Eisen
Primary Examiner
Art Unit 2629

1 July 2006